

HOUSE COMMITTEE

AMENDMENT NO. \_\_\_

Offered by

of

1 AMEND House Bill No. 1199, Page 1, Section 479.155, Line 9, by  
2 inserting after all of said line the following:

3 "479.400. 1. Sections 479.400 to 479.490 shall be known  
4 and may be cited as the "Municipal Courts Bill of Rights".

5 2. Sections 479.400 to 479.490 shall govern the procedure  
6 in all courts of this state having original jurisdiction of  
7 ordinance violations.

8 3. Sections 479.400 to 479.490 shall be construed to secure  
9 the just, speedy, and inexpensive determination of ordinance  
10 violations.

11 479.402. As used in sections 479.400 to 479.490, the  
12 following terms shall mean:

13 (1) "Clerk", any duly appointed court clerk or court  
14 administrator or any deputy or division court clerk serving  
15 courts to which sections 479.400 to 479.490 applies;

16 (2) "Corrections official", a person in control of a  
17 detention facility;

18 (3) "County", includes the City of St. Louis;

19 (4) "Court", a division of the circuit court having  
20 jurisdiction to hear ordinance violations;

21 (5) "Detention facility", any jail, workhouse, lockup or  
22 other facility normally operated to hold sentenced offenders or  
23 that is used to confine adults awaiting trial;

24 (6) "Law", includes constitutions, statutes, ordinances,  
25 judicial decisions and sections 479.400 to 479.490;

26 (7) "Municipal division", any division of the circuit court  
27 presided over by a judge having original jurisdiction to hear and  
28 determine municipal ordinance violations;

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1 (8) "Municipality", includes all charter, first, second,  
2 third and fourth class cities, towns, and villages;

3 (9) "Ordinance", a law enacted by a municipality or county;

4 (10) "Peace Officer", includes police officers, members of  
5 the state highway patrol, sheriffs, marshals, constables, and  
6 their deputies;

7 (11) "Person", includes corporations;

8 (12) "Prosecutor", any attorney or counselor who represents  
9 any county, city, town, or village in the prosecution of a person  
10 for a violation of an ordinance;

11 (13) "Violation", any ordinance violation within the  
12 jurisdiction of any court to which sections 479.400 to 479.490  
13 applies.

14 479.404. 1. In computing any period of time prescribed or  
15 allowed by sections 479.400 to 479.490, by order of court, or by  
16 any applicable statute, the day of the act, event, or default  
17 after which the designated period of time begins to run is not to  
18 be included. The last day of the period so computed is to be  
19 included, unless it is a Saturday, Sunday, or a legal holiday, in  
20 which event the period runs until the end of the next day that is  
21 neither a Saturday, Sunday nor a legal holiday. When the period  
22 of time prescribed or allowed is less than seven days,  
23 intermediate Saturdays, Sundays, and legal holidays shall be  
24 excluded in the computation.

25 2. When by sections 479.400 to 479.490 or by a notice given  
26 thereunder or by order of court an act is required or allowed to  
27 be done at or within a specified time, the court for cause shown  
28 may at any time in its discretion:

29 (1) With or without motion or notice order the period  
30 enlarged if request therefor is made before the expiration of the  
31 period originally prescribed or as extended by a previous order;  
32 or

33 (2) Upon notice and motion made after the expiration of the  
34 specified period permit the act to be done where the failure to  
35 act was the result of excusable neglect;

36 but the court shall not enlarge the period for filing an  
37

1 application for trial de novo.

2 3. When a party has the right or is required to do some act  
3 or take some action within a prescribed period after the service  
4 of a notice or other paper upon the party and the notice or paper  
5 is served by mail, three days shall be added to the prescribed  
6 period.

7 479.406. 1. The court shall be deemed always open for the  
8 purpose of filing proper papers, the issuance and return of  
9 process, and for the making of motions, applications, and orders.

10 2. All motions and applications filed in the clerk's office  
11 for issuing process, for issuing final process to enforce  
12 judgments, and for other proceedings that do not require an order  
13 of the court are grantable by the clerk, but such action by the  
14 clerk may be suspended, altered or rescinded by the judge upon  
15 cause shown.

16 479.408. Every officer to whom any writ of process or order  
17 shall be directed and delivered for service under sections  
18 479.400 to 479.490 shall make return thereof in writing, showing  
19 the time, place, and manner of service thereof, and shall sign  
20 such return and file the same with the clerk.

21 479.410. Every person arrested and held in custody by any  
22 peace officer in any detention facility, police station, or any  
23 other place, upon or without a warrant or other process for the  
24 alleged commission of an ordinance violation, or upon suspicion  
25 thereof, shall promptly, upon request, be permitted to consult  
26 with counsel or other persons and, for such purpose, to use a  
27 telephone.

28 479.412. Proceedings under sections 479.412 to 479.432  
29 shall be informal, and technical rules of evidence need not  
30 apply.

31 479.414. 1. Any person arrested for an ordinance violation  
32 shall be entitled to be released from custody pending trial. The  
33 person is also entitled to be released pending trial de novo,  
34 review, and appeal. As each court enters a judgment, it shall  
35 review the conditions of release and may modify them as provided  
36 in section 479.422.

37 2. If an arresting officer has not released a person, the

1 court shall order the person released upon the person's written  
2 promise to appear unless the court finds:

3 (1) The promise alone is not sufficient reasonably to  
4 assure the appearance of the person; or

5 (2) The person poses a danger to a crime victim, the  
6 community, or any other person.

7 3. If the court determines that the imposition of  
8 conditions assures that the defendant is reasonably likely to  
9 appear and does not pose a danger to a crime victim, the  
10 community or any other person, the court shall impose conditions  
11 for the release of the person. The appropriate conditions shall  
12 include one or more of the following:

13 (1) Place the person in the custody of a designated person  
14 or organization agreeing to supervise the person;

15 (2) Place restrictions on the travel, association, or place  
16 of abode of the person during the period of release;

17 (3) Require the execution of a bond in a stated amount with  
18 sufficient solvent sureties, or the deposit in the registry of  
19 the court of the sum in cash or negotiable bonds of the United  
20 States or the state of Missouri or any political subdivision  
21 thereof;

22 (4) Require the person to report regularly to some officer  
23 of the court or peace officer in such manner as the court  
24 directs;

25 (5) Require the execution of a bond in a stated amount and  
26 the deposit in the registry of the court of ten percent, or such  
27 lesser sum as the court directs, of such sum in cash or  
28 negotiable bonds of the United States or the state of Missouri or  
29 any political subdivision thereof;

30 (6) Impose any other conditions deemed reasonably  
31 necessary, including but not limited to a condition requiring  
32 that the person return to custody after specified hours.

33 4. In determining which conditions of release will  
34 reasonably assure appearance, the court shall, on the basis of  
35 available information, take into account the nature and  
36 circumstances of the violation, the weight of the evidence  
37 against the person, the person's family ties, employment,

1 financial resources, character, mental condition, the length of  
2 the person's residence in the community, the person's record of  
3 convictions, and record of appearance at court proceedings or  
4 flight to avoid prosecution or failure to appear at court  
5 proceedings.

6 5. A court releasing a person under this section shall  
7 enter an order stating the conditions imposed. The court shall  
8 inform such person of the conditions imposed and of the penalties  
9 applicable to violations of the conditions of release and shall  
10 advise that a warrant for arrest shall be issued immediately upon  
11 any such violation.

12 479.416. 1. The court issuing a warrant for the arrest of  
13 any accused shall set the conditions for release of the accused.  
14 The conditions of release shall be stated on the warrant of  
15 arrest. The court shall impose one of the following conditions:

16 (1) The written promise of the accused to appear; or

17 (2) The execution of a bond in a stated amount under  
18 subdivision (3) of subsection 3 of section 479.414; or

19 (3) The execution of a bond in a stated amount under  
20 subdivision (5) of subsection 3 of section 479.414.

21  
22 The court may impose additional conditions for release as  
23 provided in subsection 3 of section 479.414.

24 2. If the arrest of the accused upon warrant occurs in a  
25 county other than that in which the ordinance violation occurred,  
26 the peace officer making the arrest shall promptly release the  
27 accused in accordance with the release conditions or bail  
28 prescribed on the warrant; but if none, the peace officer shall  
29 take the accused before the court in such county having  
30 jurisdiction of ordinance violations, to admit the accused to  
31 bail in such sum as the court may determine will likely ensure  
32 appearance of the accused. Bail, if taken by the peace officer  
33 making the arrest or if taken by a judge in such county, shall be  
34 promptly forwarded to the court from which the warrant was  
35 issued.

36 479.418. When an arrest is made without a warrant, the  
37 peace officer may accept bond in accordance with a bail schedule

1 furnished by the court having jurisdiction.

2 479.420. The court that sets the conditions for release, or  
3 clerk or peace officer when authorized, may accept the conditions  
4 for release and release the accused.

5 479.422. 1. Upon motion by the prosecutor or by the  
6 accused, or upon the court's own motion, the court in which the  
7 proceeding is pending may modify the requirements for release  
8 after notice to the parties and hearing when the court finds  
9 that:

10 (1) New, different, or additional requirements for release  
11 are necessary;

12 (2) The conditions for release that have been set are  
13 excessive;

14 (3) The accused has failed to comply with or has violated  
15 the conditions for the accused's release; or

16 (4) The accused has been convicted of the ordinance  
17 violation charged.

18 2. When the court increases the requirements for release or  
19 new requirements are set, the accused shall be remanded to the  
20 custody of the corrections official until compliance with the  
21 modified conditions. If the accused is not in custody, the court  
22 may order that a warrant for the arrest of the accused be issued.

23 479.424. An accused for whom conditions for release are  
24 imposed and who after twenty-four hours from the time of the  
25 release hearing continues to be detained on charges as a result  
26 of the accused's inability to meet the conditions for release  
27 shall, upon application, be entitled to have the conditions  
28 reviewed by the court that imposed them. The application shall  
29 be determined promptly.

30 479.426. The court may order the arrest of an accused who  
31 has been released if it shall appear to the court that:

32 (1) There has been a breach of any condition for the  
33 release; or

34 (2) The bail shall be increased or new or additional  
35 security be required or new conditions for release be imposed.

36 The accused, upon application, shall be entitled to a hearing  
37

1 concerning the reasons for the issuance of the order.

2 479.428. 1. If a court shall fail to set conditions for  
3 release or shall set inadequate or excessive conditions, an  
4 application may be filed in a higher court by the accused or by  
5 the prosecutor stating the grounds for the application and the  
6 relief sought. A copy of the application and the notice of the  
7 time when it will be presented to the court shall be served on  
8 all parties.

9 2. If the higher court finds that the accused is entitled  
10 to be released and no conditions therefor have been set or that  
11 the conditions are excessive or inadequate, the court shall make  
12 an order setting or modifying conditions for the release of the  
13 accused.

14 3. At the time of complying with the conditions of release  
15 set by the higher court, the accused shall file with the clerk a  
16 signed and acknowledged written instrument in which the accused  
17 shall specify the post office address to which all notices in  
18 connection with the case thereafter may be mailed. Proof of  
19 mailing notice to the accused at that address shall constitute  
20 sufficient notice to the accused in all cases where notice is  
21 required under sections 479.400 to 479.490.

22 479.430. When any person is released by a court other than  
23 the court in which the person is to appear, the clerk of the  
24 releasing court shall transmit a record of the release, together  
25 with any conditions imposed, to the clerk of the court in which  
26 the person released is required to appear.

27 479.432. 1. The clerk of the court in which the accused is  
28 required to appear shall file all bonds. All bonds taken by a  
29 peace officer shall be certified by such officer and transmitted  
30 forthwith to the clerk of the court in which the accused is  
31 required to appear. When cash or securities specified in  
32 sections 479.400 to 479.490 are taken they shall be delivered  
33 forthwith to the clerk of the court in which the accused is  
34 required to appear and deposited in the registry of the court.

35 2. Whenever the surety upon any bond shall desire to  
36 surrender the principal, the surety may procure from the clerk a  
37 certified copy of said bond, by virtue of which such surety, or

1 any person authorized by the surety, may take the principal into  
2 custody. If a bond is forfeited for the failure of the principal  
3 to appear as required by the bond and the surety produces the  
4 principal prior to the rendition of judgment upon the forfeiture  
5 and the surety pays all costs and expenses caused by the  
6 principal's failure to appear, the surety is discharged from  
7 further liability. When surrendering the principal to the peace  
8 officer, the surety shall deliver a certified copy of the bond  
9 and the peace officer shall take the principal into custody and  
10 acknowledge acceptance of the principal in writing. Any  
11 principal so surrendered may be conditionally released under  
12 sections 479.400 to 479.490.

13 3. (1) If there is a breach of a condition of a bond, the  
14 court in which the case is pending may declare a forfeiture of  
15 the bond. The court may direct that a forfeiture be set aside  
16 upon such conditions as the court may impose, if it appears that  
17 justice does not require the enforcement of the forfeiture. When  
18 a forfeiture has not been set aside, the court on the  
19 prosecutor's motion may enter a judgment of default and execution  
20 may issue thereon.

21 (2) By entering into a bond the obligors submit to the  
22 jurisdiction of the court in which the defendant is required to  
23 appear and irrevocably appoint the clerk as their agent upon whom  
24 any papers affecting their liability may be served. Their  
25 liability may be enforced on the prosecutor's motion without the  
26 necessity of an independent action. The motion and notice of the  
27 hearing as the court prescribes may be served on the clerk, who  
28 shall forthwith mail a copy to each of the obligors.

29 4. When the conditions of the bond have been satisfied the  
30 court shall release the obligors. When a forfeiture of the bond  
31 is set aside, the court may release the obligors. Any surety may  
32 be released upon depositing cash in the amount of the bond or by  
33 a timely surrender of the defendant.

34 5. Any defendant who has been released pending further  
35 proceedings and any surety for such defendant shall give written  
36 notice to the clerk of the court in which the case is pending of  
37 any change of address.



1 6. A person shall not be accepted as a surety on any bail  
2 bond unless the person:

3 (1) Is reputable, at least twenty-one years of age and a  
4 resident of the state of Missouri;

5 (2) Has net assets with a value in excess of exemptions at  
6 least equal to the amount of the bond that are subject to  
7 execution in the state of Missouri;

8 (3) Has not, within the past fifteen years, been found  
9 guilty of or pleaded guilty or nolo contendere to:

10 (a) Any felony of this state or the United States; or

11 (b) Any other crime of this state or the United States  
12 involving moral turpitude, whether or not a sentence was imposed;

13 (4) Has no outstanding forfeiture or unsatisfied judgment  
14 thereon entered upon any bail bond in any court of this state or  
15 of the United States.

16  
17 A lawyer, or an elected or appointed official or employee of the  
18 state of Missouri or any county or other political subdivision  
19 thereof shall not be accepted as a surety on any bail bond;  
20 except that, such disqualification shall not apply if the  
21 principal is the spouse, child or family member of the surety.  
22 If there is more than one surety, the aggregate net worth of the  
23 sureties in excess of exemptions shall be at least equal to the  
24 amount of the bond.

25 7. (1) If the surety has on file an affidavit relating to  
26 all bonds in force on the first day of the then current calendar  
27 month, the separate affidavit as to other bonds executed during  
28 such calendar month may be limited to the requirements of  
29 paragraph (e) this subdivision and appropriate reference shall be  
30 made therein to the separate affidavit of qualification currently  
31 relied upon to establish the surety's qualifications. The judge,  
32 clerk or officer who is authorized to take and approve the bond  
33 shall administer the oath to such affidavit. The affidavit shall  
34 be on a suitable form, which shall be provided. In addition to  
35 the matters specified in subsection 6 of this section, it shall  
36 contain:

37 (a) An accurate legal description of the real estate that

1 the surety proposes to justify as to the surety's sufficiency,  
2 together with a description of the improvements located thereon,  
3 and the location of the property by street address if it is  
4 located in a city or town;

5 (b) The latest assessed value of such property;

6 (c) An accurate description of the personal property that  
7 the surety proposes to justify as to the surety's sufficiency and  
8 a statement of its reasonable market value;

9 (d) A list of all bail bonds upon which the surety is  
10 surety and upon which the surety's obligation remains  
11 undischarged, the amount of each bond, the name of the principal  
12 or defendant, the ordinance violation charged, and the court in  
13 which such bond is pending; and

14 (e) A statement whether or not the surety or anyone for the  
15 surety's use has been promised or has received any consideration  
16 or security for suretyship, and if so, the nature and amount  
17 thereof, and the name of the person by whom such promise was made  
18 or from whom such security or consideration was received.

19 (2) The judge, clerk, or officer to whom such affidavit of  
20 justification is submitted may make such additional investigation  
21 concerning the qualifications of the surety as thought to be  
22 necessary and, for such purpose, shall have authority to  
23 administer all necessary oaths.

24 (3) No bond shall be approved unless the surety thereon  
25 appears to be qualified under the requirements of sections  
26 479.412 to 479.432.

27 8. When a surety is accepted upon a bond, the surety shall  
28 execute an affidavit of justification that shall be attached to  
29 the bond and filed therewith by the clerk of the court in  
30 accordance with the provisions of subsection 1 of this section.  
31 A duplicate copy of such affidavit shall be preserved in a  
32 separate file in the office of the clerk of the court in which  
33 such bond is first filed, indexed alphabetically by the names of  
34 the sureties. Such file shall be open to the inspection of any  
35 interested person.

36 9. (1) Any corporation qualified under the provisions of  
37 section 379.010, including the requirement that it produce

1 evidence of its solvency satisfactory to the court, shall be  
2 qualified to act as a surety upon any bail bond taken under the  
3 provisions of sections 479.400 to 479.490. Any such bond shall  
4 be executed by a surety company in the manner provided by law.

5 (2) An agent acting on behalf of such a corporation shall  
6 be subject to the qualifications set forth in Supreme Court Rule  
7 37.29(a), (c) and (d) and, in addition, shall be licensed as a  
8 bail bond agent as required by law.

9 479.434. A violation notice shall be in writing and shall:

10 (1) State the name and address of the court;

11 (2) State the name of the prosecuting county or  
12 municipality;

13 (3) State the name of the accused or, if not known,  
14 designate the accused by any name or description by which the  
15 accused can be identified with reasonable certainty;

16 (4) State the date and place of the ordinance violation as  
17 definitely as can be done;

18 (5) State the facts that support a finding of probable  
19 cause to believe the ordinance violation was committed and that  
20 the accused committed it;

21 (6) State that the facts contained therein are true;

22 (7) Be signed and on a form bearing notice that false  
23 statements made therein are punishable by law;

24 (8) Cite the chapter and section of the ordinance alleged  
25 to have been violated and the chapter and section that fixes the  
26 penalty or punishment; and

27 (9) State other legal penalties prescribed by law may be  
28 imposed for failure to appear and dispose of the violation.

29 479.436. All ordinance violations shall be prosecuted by  
30 information. An information charging the commission of an  
31 ordinance violation may be based on the prosecutor's information  
32 and belief that the ordinance violation was committed. The  
33 information shall be supported by a violation notice as  
34 prescribed by section 479.434.

35 479.438. 1. The information shall be in writing, signed by  
36 the prosecutor and filed in the court having jurisdiction of the  
37 ordinance violation.

1       2. The information shall:

2       (1) State the name of the defendant or, if not known,  
3 designate the defendant by any name or description by which the  
4 defendant can be identified with reasonable certainty;

5       (2) State plainly, concisely, and definitely the essential  
6 facts constituting the ordinance violation charged, including  
7 facts necessary for any enhanced punishment;

8       (3) State the date and place of the ordinance violation  
9 charged as definitely as can be done;

10       (4) Cite the chapter and section of the ordinance alleged  
11 to have been violated and the chapter and section providing the  
12 penalty or punishment.

13       3. All ordinance violations that are of the same or similar  
14 character or based on the same act or on two or more acts that  
15 are part of the same transaction or on two or more acts or  
16 transactions that are connected or that constitute parts of a  
17 common scheme or plan may be charged in the same information in  
18 separate counts.

19       4. Two or more defendants may be charged in the same  
20 information if they are alleged to have participated in the same  
21 act or transaction or in the same series of acts or transactions  
22 constituting an ordinance violation or violations. Such  
23 defendants may be charged in one or more counts together or  
24 separately, and all of the defendants need not be charged in each  
25 count.

26       5. Any defendant charged in an information under an  
27 incorrect name may furnish the defendant's correct name, and the  
28 correct name shall be substituted in the information. The  
29 defendant's failure to furnish the correct name shall not  
30 invalidate the proceedings.

31       6. Any information charging an ordinance violation may be  
32 amended at any time before verdict or finding if:

33       (1) No additional or different ordinance violation is  
34 charged; and

35       (2) A defendant's substantial rights are not thereby  
36 prejudiced.

1 No such amendment shall cause delay of a trial unless the court  
2 finds that a defendant needs further time to prepare a defense by  
3 reason of such amendment.

4 7. If the original information is unavailable for any  
5 reason, a copy, certified by the clerk or by the prosecutor, may  
6 be substituted.

7 8. An information shall not be invalid, nor shall the  
8 trial, judgment, or other proceedings on the information be  
9 stayed, because of any defect that does not prejudice the  
10 substantial rights of the defendant.

11 479.440. The summons shall:

12 (1) Be in writing and in the name of the prosecuting county  
13 or municipality;

14 (2) State the name of the person summoned and the address,  
15 if known;

16 (3) Describe the ordinance violation charged;

17 (4) Be signed by a judge or by a clerk of the court when  
18 directed by a judge; and

19 (5) Command the person to appear before the court at a  
20 stated time and place in response thereto.

21 479.442. When an information charging the commission of an  
22 ordinance violation is filed under subsection 3 of section  
23 479.438, a summons shall be issued unless the court finds that  
24 there are:

25 (1) Sufficient facts stated to show probable cause that an  
26 ordinance violation has been committed; and

27 (2) Reasonable grounds for the court to believe that the  
28 defendant will not appear upon the summons, or a showing has been  
29 made to the court that the accused poses a danger to a crime  
30 victim, the community, or any other person.

31  
32 If the court so finds, a warrant for the arrest of the defendant  
33 may be issued.

34 479.444. A summons may be served by:

35 (1) The clerk mailing it to defendant's last known address  
36 by first class mail; or

37 (2) An officer in the manner provided by Supreme Court Rule

1 54.13 or Supreme Court Rule 54.14.

2  
3 If the defendant fails to appear in response to a summons and  
4 upon a finding of probable cause that an ordinance violation has  
5 been committed, the court may issue an arrest warrant.

6 479.446. 1. The warrant of arrest shall be in writing and  
7 issued in the name of the prosecuting county or municipality. It  
8 may be directed to any peace officer in the state.

9 2. The warrant shall:

10 (1) Contain the name of the person to be arrested or, if  
11 not known, any name or description by which the defendant can be  
12 identified with reasonable certainty;

13 (2) Describe the ordinance violation charged in the  
14 information;

15 (3) State the date when issued and the jurisdiction where  
16 issued;

17 (4) Command that the defendant named or described therein  
18 be arrested and brought forthwith before the court designated in  
19 the warrant;

20 (5) Specify the conditions of release; and

21 (6) Be signed by a judge or by a clerk of the court when  
22 directed by the judge for a specific warrant.

23 3. All warrants ordered for an ordinance violation may be  
24 directed to any peace officer in the state.

25 4. The warrant shall be executed by the arrest of the  
26 defendant.

27 5. A warrant may be executed anywhere in the state by any  
28 peace officer. The peace officer need not possess the warrant at  
29 the time of the arrest, but upon request the officer shall show  
30 the warrant to the defendant as soon as possible. If the peace  
31 officer does not possess the warrant at the time of the arrest,  
32 the officer shall inform the defendant of the ordinance violation  
33 charged and the fact that a warrant has been issued.

34 479.448. 1. A person arrested under a warrant for an  
35 ordinance violation who does not satisfy conditions for release  
36 shall be brought as soon as practicable before a judge of the  
37 court from which the warrant was issued. The warrant, with

1 proper return thereon, shall be filed with the court.

2 2. Upon the defendant's initial appearance, the judge shall  
3 inform the defendant of:

4 (1) The ordinance violation charged;

5 (2) The right to retain counsel;

6 (3) The right to request the appointment of counsel if:

7 (a) The defendant is indigent and unable to employ counsel;  
8 and

9 (b) There is a possibility of a jail sentence; and

10 (4) The right to remain silent.

11 479.450. Arraignment shall be conducted in open court and  
12 shall consist of reading the information to the defendant or  
13 stating the substance of the charge and calling on the defendant  
14 to plead thereto. The defendant shall be afforded a reasonable  
15 time to examine the charge before the defendant is called upon to  
16 plead.

17 479.452. 1. In a prosecution for an ordinance violation,  
18 the defendant shall have the right to appear and defend in person  
19 and by counsel.

20 2. If any person charged with an ordinance violation, whose  
21 conviction would possibly result in confinement, shall be without  
22 counsel upon a first appearance before a judge, it shall be the  
23 duty of the judge to advise the defendant of the right to counsel  
24 and of the willingness of the judge to appoint counsel to  
25 represent the defendant if the defendant is unable to employ  
26 counsel. Upon a showing of indigency, it shall be the duty of  
27 the judge to appoint counsel to represent the defendant.

28 3. If, after being informed of the right to counsel, the  
29 defendant requests to proceed without the benefit of counsel and  
30 the judge finds that the defendant has knowingly, voluntarily and  
31 intelligently waived the defendant's right to have counsel, the  
32 judge shall have no duty to appoint counsel. If at any stage of  
33 the proceedings it appears to the judge before whom the matter is  
34 then pending that because of the gravity of the ordinance  
35 violation charged and other circumstances affecting the defendant  
36 the failure to appoint counsel may result in injustice to the  
37 defendant, the judge shall then appoint counsel. Appointed

1 counsel shall be allowed a reasonable time in which to prepare  
2 the defense.

3 479.454. 1. Pleadings shall be the information and plea  
4 thereto.

5 2. (1) Any defense or objection that is capable of  
6 determination without trial of the general issue may be raised  
7 before trial by motion.

8 (2) Defenses and objections based on defects in the  
9 institution of the prosecution or in the information other than  
10 that it fails to show jurisdiction in the court or to charge an  
11 ordinance violation may be raised only by motion before trial.  
12 The motion shall include all such defenses and objections then  
13 available to the defendant. Failure to present any such defense  
14 or objection as herein provided constitutes a waiver thereof, but  
15 the court for cause shown may grant relief from the waiver.

16 (3) The motion shall be made before the plea is entered,  
17 but the judge may permit it to be made within a reasonable time  
18 thereafter.

19 (4) The motion shall be heard and determined before trial  
20 on application of the prosecutor or the defendant, unless the  
21 court orders that the hearing and determination be deferred until  
22 the trial.

23 (5) Lack of jurisdiction or the failure of the information  
24 to charge an ordinance violation shall be noticed by the court at  
25 any time during the pendency of the proceeding.

26 479.456. Requests that evidence be suppressed shall be  
27 raised by motion before trial; however, the court in the exercise  
28 of discretion may entertain a motion to suppress evidence at any  
29 time during trial.

30 479.458. 1. This section governs the procedure for  
31 disqualification of a judge in all ordinance violation cases,  
32 except those heard de novo or those in which there is a timely  
33 exercise of a right to a jury trial.

34 2. If the judge is related to any defendant or has an  
35 interest in or has been counsel in the case, the judge shall  
36 recuse.

37 3. A change of judge shall be ordered upon the filing of a



1 written application therefor by any party. The applicant need  
2 not allege or prove any reason for such change. The application  
3 need not be verified and may be signed by any party or an  
4 attorney for any party. The application shall be filed not later  
5 than ten days after the initial plea is entered. If the  
6 designation of the trial judge occurs less than ten days before  
7 trial, the application may be filed any time prior to trial. If  
8 the designation of the trial judge occurs more than ten days  
9 after the initial plea is entered, the application shall be filed  
10 within ten days of the designation of the trial judge or prior to  
11 the commencement of any proceeding on the record, whichever is  
12 earlier. No party shall be allowed more than one change of judge  
13 under this subsection. However, no party shall be precluded from  
14 requesting any change of judge for cause at any time.

15 4. When a timely application for a change of judge is  
16 filed or a judge recuses, the judge shall:

17 (1) Comply with any circuit court rule that provides for  
18 the assignment of a judge; or

19 (2) Notify the presiding judge of the circuit who shall  
20 designate a judge to hear the case or request the court to  
21 transfer a judge to hear the case.

22 5. If an associate circuit judge or a circuit judge is  
23 designated to try the case, the designated judge shall determine  
24 the location of the trial at a place within the county.

25 479.460. Discovery shall be permitted solely in the judge's  
26 discretion as justice requires.

27 479.462. The prosecutor and the defendant shall be entitled  
28 to process for witnesses as follows:

29 (1) A subpoena shall be issued by the clerk under the seal  
30 of the court. It shall state the name of the court and the title  
31 of the proceedings and shall command each person to whom it is  
32 directed to attend and give testimony at the time and place  
33 specified therein. The clerk shall issue a subpoena, signed and  
34 sealed but otherwise in blank to a party requesting it, who shall  
35 fill in the blanks before it is served;

36 (2) A subpoena duces tecum may also command the person to  
37 whom it is directed to produce the books, papers, documents, or

1 other objects designated therein;

2 (3) The court may quash or modify a subpoena if compliance  
3 would be unreasonable or oppressive. The court may direct that  
4 books, papers, documents, or objects designated in a subpoena  
5 duces tecum be produced before the court at a time prior to the  
6 trial or prior to the time when they are offered in evidence.  
7 Upon their production the court may permit the books, papers,  
8 documents, or objects, or portions thereof to be inspected by the  
9 parties or their attorneys;

10 (4) A subpoena may be served by any peace officer or by any  
11 other person who is not a party and who is not less than eighteen  
12 years of age. A subpoena may be served any place within the  
13 state. Fees and mileage need not be tendered to the witness upon  
14 service of a subpoena. The service of a subpoena shall be by  
15 reading the same or delivering a copy thereof to the person to be  
16 summoned. If the witness shall refuse to hear such subpoena read  
17 or to receive a copy thereof, the offer of the officer or other  
18 person to read the same or to deliver a copy thereof and such  
19 refusal shall be sufficient service of such subpoena;

20 (5) (a) Every officer to whom a subpoena is delivered for  
21 service shall make return thereof in writing as to the time,  
22 place, and manner of service of the subpoena, and shall sign the  
23 return.

24 (b) If a person other than an officer makes service of the  
25 subpoena, he or she shall make affidavit as to the time, place,  
26 and manner of service;

27 (6) Any person who does not obey a subpoena without good  
28 cause shall be subject to contempt of court proceedings;

29 (7) (a) Whenever a witness in a proceeding has been once  
30 subpoenaed or required to give bail to appear before the court,  
31 the witness shall attend from time to time until the case is  
32 disposed or the witness is finally discharged by the judge. The  
33 witness shall be liable to attachment and bail may be forfeited  
34 for failure to appear if the witness has received notice of the  
35 time and place to appear.

36 (b) If the trial is continued, the judge shall orally  
37 notify such witnesses present as either party requests to attend

1 on the new date set for hearing to give testimony. The oral  
2 notice shall be valid as a summons. The names of the witnesses  
3 so notified shall be entered on the docket.

4 (c) It shall be the sole responsibility of the respective  
5 parties or their attorneys to notify any witnesses not orally  
6 notified by the judge of the new date set for hearing, and court  
7 process shall be provided for such purpose when requested.

8 479.464. The prosecution and defense in each case shall  
9 have the right to a speedy trial. Continuances may be granted  
10 for good cause shown.

11 479.466. No defendant shall either be tried or permitted to  
12 enter a plea of guilty unless the defendant is personally present  
13 or the judge, defendant, and prosecutor consent to such trial or  
14 plea in the defendant's absence. The defendant's presence in the  
15 courtroom shall not be required in the event of a reduction of  
16 sentence.

17 479.468. 1. A defendant may plead not guilty or guilty.  
18 If a defendant refuses to plead or if a corporation fails to  
19 appear, the court shall enter a plea of not guilty.

20 2. Except as provided in section 479.466, before accepting  
21 a plea of guilty, the judge shall address the defendant  
22 personally in open court. The judge shall inform the defendant  
23 of the following:

24 (1) The nature of the charge to which the plea is offered,  
25 the mandatory minimum penalty provided by law, if any, and the  
26 maximum possible penalty provided by law; and

27 (2) The defendant's right to be represented by an attorney  
28 and that the judge will appoint an attorney for the defendant if  
29 the defendant is indigent and if it appears to the judge that  
30 there would possibly be a jail sentence upon conviction; and

31 (3) That if the defendant pleads guilty there will not be a  
32 trial of any kind, so that by pleading guilty the defendant  
33 waives the right to a trial; and

34 (4) The defendant's right to plead not guilty or to persist  
35 in that plea if it has already been made.

36  
37 The judge shall further inform the defendant of any right to a

1 jury trial, the right to present witnesses on behalf of the  
2 defendant, that the defendant has the right to confront and  
3 cross-examine witnesses against the defendant, that the defendant  
4 has the right to testify and that nobody can compel the defendant  
5 to testify. The judge shall determine whether the defendant  
6 understands, upon oral or written information provided, the  
7 matters presented.

8 3. Except as provided in section 479.466, the judge shall  
9 not accept a plea of guilty unless the judge finds that said plea  
10 is knowingly, voluntarily, and intelligently made and not the  
11 result of force or threats or promises.

12 4. (1) If the defendant would possibly receive a jail  
13 sentence upon conviction, the judge shall determine, before  
14 accepting the defendant's plea of guilty or not guilty, that the  
15 defendant has made a knowledgeable, voluntary, and intelligent  
16 waiver of the right to assistance of counsel.

17 (2) Prior to making the finding, the judge shall review  
18 with the defendant a written waiver of counsel.

19 (3) If the judge finds the waiver is knowingly,  
20 voluntarily, and intelligently made, the waiver shall be signed  
21 by the defendant, witnessed by the judge or the clerk at the  
22 judge's direction, and appropriately recorded.

23 5. (1) The judge shall not participate in any plea  
24 agreement discussions, but after a plea agreement has been  
25 reached the judge may discuss the agreement with the attorneys  
26 including any alternative that would be acceptable.

27 (2) The prosecutor and the attorney for the defendant or  
28 the defendant acting pro se may engage in discussions with a view  
29 toward reaching an agreement that, upon the entering of a plea of  
30 guilty to a charged ordinance violation or to a lesser or related  
31 ordinance violation, the prosecutor will do any of the following:

32 (a) Dismiss other charges; or

33 (b) Make a recommendation, or agree not to oppose the  
34 defendant's request for a particular sentence with the  
35 understanding that such recommendation or request shall not be  
36 binding on the judge; or

37 (c) Agree that a specific sentence is the appropriate

1 disposition of the case; or

2 (d) Make a recommendation for, or agree on, another  
3 appropriate disposition of the case.

4 (3) If the parties have reached a plea agreement, the judge  
5 shall require the disclosure of the agreement in open court or,  
6 on a showing of good cause, in camera at the time the plea is  
7 offered. If the agreement is under paragraph (b) of subdivision  
8 (2) of this subsection, the judge shall advise the defendant that  
9 the plea cannot be withdrawn if the judge does not adopt the  
10 recommendation or request. Thereupon the judge may accept or  
11 reject the agreement or may defer a decision as to the acceptance  
12 or rejection until there has been an opportunity to consider the  
13 presentence report.

14 (4) If the judge accepts the plea agreement, the judge  
15 shall inform the defendant that the judge will embody in the  
16 judgment and sentence the disposition provided for in the plea  
17 agreement.

18 (5) If the judge rejects the plea agreement, the judge  
19 shall inform the parties of this fact, advise the defendant  
20 personally in open court or, on a showing of good cause, in  
21 camera that the judge is not bound by the plea agreement, afford  
22 the defendant the opportunity to then withdraw the plea if it is  
23 based on an agreement under paragraph (a), (c), or (d) of  
24 subdivision (2) of this subsection, and advise the defendant that  
25 if the defendant persists in the guilty plea, the disposition of  
26 the case may be less favorable to the defendant than that  
27 contemplated by the plea agreement.

28 (6) Except as otherwise provided in this subsection,  
29 evidence of a plea of guilty, later withdrawn, or of offer to  
30 plead guilty to the ordinance violation charged or of any other  
31 ordinance violation, or of statements made in connection with,  
32 and relevant to, any of the foregoing pleas or offers, is not  
33 admissible in any civil or criminal proceeding against the person  
34 who made the plea or offer. However, evidence of a statement  
35 made in connection with, and relevant to a plea of guilty, later  
36 withdrawn, or an offer to plead guilty to the ordinance violation  
37 charged or any other ordinance violation, is admissible in a

1 criminal proceeding for perjury or false statement if the  
2 statement was made by the defendant under oath and in the  
3 presence of counsel.

4 6. The judge shall not enter a judgment upon a plea of  
5 guilty without first determining that there is a factual basis  
6 for the plea.

7 479.470. 1. If two or more defendants are charged in an  
8 information, all defendants shall be tried together unless the  
9 court orders a defendant to be tried separately. A defendant  
10 shall be ordered to be tried separately only if the defendant  
11 files a written motion requesting a separate trial and the court  
12 finds a probability of prejudice exists.

13 2. If a defendant is charged with more than one ordinance  
14 violation in the same information, the violations shall be tried  
15 jointly unless the court orders a violation to be tried  
16 separately. A violation shall be ordered to be tried separately  
17 only if:

18 (1) A party files a written motion requesting a separate  
19 trial of the offense;

20 (2) A party makes a particularized showing of substantial  
21 prejudice if the violation is not tried separately; and

22 (3) The court finds the existence of a bias or  
23 discrimination against the party that requires a separate trial  
24 of the violation.

25 479.472. 1. All trials of ordinance violations shall be  
26 held in open court in an orderly manner according to law.

27 2. If practical, traffic cases shall be heard and tried  
28 separately from other types of cases. Where a particular session  
29 of court has been designated a traffic case session, only traffic  
30 cases shall be tried except for good cause shown.

31 3. The judge shall determine all issues of fact in  
32 ordinance violation cases unless a jury trial is authorized by  
33 law and requested by the defendant.

34 4. A request for a jury trial shall be made by motion filed  
35 at least ten days prior to the scheduled trial date. If the  
36 designation of the trial date occurs less than ten days before  
37 trial, the application may be filed any time prior to trial. The

1 judge shall promptly rule on a motion for jury trial. If the  
2 motion is sustained, the case shall be certified to the presiding  
3 judge for assignment for trial by jury unless otherwise provided  
4 by statute.

5 5. All jury trials shall proceed in the manner provided for  
6 the trial of a misdemeanor by the rules of criminal procedure.

7 6. If the defendant files a written motion so requesting  
8 and attaches thereto a waiver of the right to a jury trial, the  
9 case may be remanded to the municipal division for trial.

10 479.474. The order of trial in nonjury ordinance violation  
11 cases shall be as follows:

12 (1) The prosecutor may make an opening statement. The  
13 defendant may make an opening statement or reserve it;

14 (2) The prosecutor shall offer evidence;

15 (3) The defendant may move for judgment of acquittal;

16 (4) The defendant may make an opening statement, if  
17 reserved;

18 (5) Evidence may be offered on behalf of the defendant;

19 (6) The parties, respectively, may offer evidence in  
20 rebuttal;

21 (7) The defendant may move for judgment of acquittal;

22 (8) The court may fix the length of time for arguments and  
23 shall announce it to counsel. The prosecutor shall make the  
24 opening argument, the attorney for the defendant shall make an  
25 argument, and the prosecutor for the state shall conclude the  
26 argument. Each party may waive the right to argument;

27 (9) The judge pronounces judgment.

28 479.476. 1. If the defendant shall not avail himself or  
29 herself of the right to testify or of the testimony of the wife  
30 or husband on the trial in the case, it shall not be construed to  
31 affect the innocence or the guilt of the defendant nor shall the  
32 same raise any presumption of guilt, nor be referred to by any  
33 party or attorney in the case, nor be considered by the court or  
34 jury before whom the trial takes place.

35 2. If the defendant does not testify and the defendant so  
36 requests, but not otherwise, the court shall instruct the jury in  
37 writing as follows:

1 "Under the law, a defendant has the right not to testify.  
2 No presumption of guilt may be raised and no inference of any  
3 kind may be drawn from the fact that defendant did not testify.".

4 479.478. 1. (1) When a probation or parole officer is  
5 available to the judge and upon the direction of the judge, the  
6 officer shall make a presentence investigation and report to the  
7 judge before the imposition of sentence or the granting of  
8 probation. The report shall be submitted to the court only after  
9 the defendant has pleaded guilty or has been found guilty.

10 (2) The report of the presentence investigation shall  
11 contain such information as the judge shall request. Before  
12 making any authorized disposition, the judge, upon request of the  
13 defendant or the attorney for the defendant, shall allow the  
14 defendant and the attorney for the defendant access to the  
15 complete pre-sentence investigation report and recommendations.

16 2. Sentence shall be imposed without unreasonable delay. A  
17 defendant shall be personally present when sentence and judgment  
18 are pronounced unless the judge, the prosecutor, and the  
19 defendant consent to the absence of the defendant.

20 3. After imposing sentence, the judge shall advise the  
21 defendant of any right to trial de novo and the right of a  
22 defendant who is unable to pay the cost the right to proceed as  
23 an indigent.

24 4. A judgment of conviction shall set forth the plea, the  
25 verdict or findings, and the adjudication and sentence. If the  
26 defendant is found not guilty or for any other reason is entitled  
27 to be discharged, judgment shall be entered accordingly.

28 5. If authorized by law, the judge may suspend the  
29 imposition of sentence or execution of sentence and place the  
30 defendant on probation or parole for a term not to exceed two  
31 years.

32 6. The court in which any judgment, whether of imprisonment  
33 or fine, was rendered may grant, by an order entered of record  
34 and signed by the judge, a stay of execution upon such judgment  
35 or portion thereof for a specified period or periods of time, not  
36 to exceed six months. The judge may require the defendant to  
37 enter into a bond conditioned upon surrender of the defendant in



1 execution upon such judgment on a day to be specified in such  
2 order.

3 7. When pronouncing sentence, the judge shall state whether  
4 the sentence shall run consecutively or concurrently with  
5 sentences on one or more ordinance violations for which the  
6 defendant is being sentenced or for which the defendant has been  
7 previously sentenced. If the judge fails to do so at the time of  
8 pronouncing the sentences, the respective sentences shall run  
9 concurrently.

10 479.480. 1. When a fine is assessed for violation of an  
11 ordinance, it shall be within the discretion of the judge  
12 assessing the fine to provide for the payment of the fine on an  
13 installment basis under such terms and conditions as the judge  
14 may deem appropriate.

15 2. If it appears to the judge imposing judgment assessing a  
16 fine that the defendant does not have at that time the present  
17 means to satisfy the fine, the judge assessing the fine may order  
18 a stay of execution on the judgment and grant the defendant a  
19 specified period of time within which to satisfy the same.

20 3. If a defendant defaults in the payment of the fine, the  
21 judge may order the defendant to show cause why the defendant  
22 should not be held in contempt of court.

23 4. Upon default in the payment of a fine or any installment  
24 thereof, the fine may be collected by any means authorized by  
25 law, including means for the enforcement of money judgments.

26 479.482. When a defendant is sentenced to imprisonment, the  
27 clerk shall deliver to the corrections official a certified copy  
28 of the judgment and sentence, specifying credit for time served,  
29 and the corrections official shall confine the defendant in a  
30 detention facility or deliver the defendant as specified in the  
31 order.

32 479.484. 1. Within ten days after the entry of judgment  
33 and prior to the filing of application for trial de novo, the  
34 court may of its own initiative or on motion of a defendant set  
35 aside judgment upon any of the following grounds:

36 (1) That the facts stated in the information filed and upon  
37 which the cause was tried do not state an ordinance violation;

1 (2) That the court was without jurisdiction of the  
2 ordinance violation charged;

3 (3) To correct manifest injustice.

4  
5 The court shall record the grounds upon which the order was  
6 entered.

7 2. A motion to withdraw a plea of guilty may be made only  
8 before sentence is imposed or when imposition of sentence is  
9 suspended, but to correct manifest injustice, the court after  
10 sentence may set aside the judgment of conviction and permit the  
11 defendant to withdraw the defendant's plea.

12 3. Clerical mistakes in the record and errors in the record  
13 arising from oversight or omission may be corrected by the court  
14 any time on the motion of any party and after such notice, if  
15 any, as the court orders.

16 479.486. 1. After commitment of a defendant to serve a  
17 sentence of imprisonment, the judge may commute the term of the  
18 sentence to the time then served.

19 2. A judge may revoke probation or parole upon compliance  
20 with section 559.036, but not otherwise; except that, notice of  
21 the hearing may be mailed in the same manner as a summons. The  
22 defendant may be conditionally released pending final hearing.

23 479.488. 1. An application for trial de novo shall be  
24 filed as provided by law. No judge may order an extension of  
25 time for filing or perfecting an application for trial de novo.

26 2. An application for trial de novo shall not be granted  
27 after the defendant satisfies any part of the penalty and costs  
28 of the judgment.

29 3. The filing of an application for trial de novo or review  
30 shall suspend the execution of the judgment of the municipal  
31 division. If the applicant for trial de novo withdraws the  
32 application, or if before commencement of trial, the court enters  
33 a finding that the applicant has abandoned the trial de novo, the  
34 case shall be remanded to the municipal division for execution of  
35 judgment.

36 4. When an application for trial de novo is filed, the  
37 clerk shall transmit the duly certified record to the clerk of

1 the division designated to hear ordinance violations de novo.  
2 The failure of the clerk to transmit the record shall not affect  
3 the defendant's trial de novo.

4 5. All trials de novo shall proceed in the manner provided  
5 for the trial of a misdemeanor by the rules of criminal  
6 procedure.

7 479.490. 1. A criminal contempt may be punished summarily  
8 if the judge certifies that the judge saw or heard the conduct  
9 constituting the contempt and that it was committed in the  
10 judge's presence. The judgment of contempt and the order of  
11 commitment shall recite the facts and shall be signed by the  
12 judge and entered of record.

13 2. All other instances of contempt shall be prosecuted on  
14 notice. If the contempt charged involves disrespect to or  
15 criticism of a judge, that judge is disqualified from presiding  
16 at the trial or hearing except with the defendant's consent.  
17 Upon a finding of guilt, the judge shall recite in the judgment  
18 of contempt and in the order of commitment the essential facts  
19 constituting the criminal contempt and fixing the punishment.";  
20 and

21  
22 Further amend said title, enacting clause and intersectional  
23 references accordingly.